

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, SEPTEMBER 18, 2012

TOWN HALL MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, September 18, 2012 at 6:00 p.m. at Town Hall in the Mayflower Room.

Present: Mathew J. Muratore, Chairman
John T. Mahoney, Jr., Vice Chairman
Sergio O. Harnais
Belinda A. Brewster [arrived at 6:15 p.m.]
Kenneth A. Tavares

Melissa Arrighi, Town Manager

CALL TO ORDER

Chairman Muratore called the meeting to order at 6:05 p.m.

The Board voted to enter executive session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 6, to consider the purchase, exchange, lease, or value of real property, as an open meeting on this matter may have a detrimental effect on the negotiating position of the body. By roll call: Tavares – yes, Mahoney – yes, Harnais – yes, and Muratore – yes.

Chairman Muratore noted that, following executive session, the Board would reconvene in open session.

RETURN TO OPEN SESSION

Chairman Muratore reconvened the meeting in open session at 7:10 p.m. and invited Nancy Schiavone, Development Director for the Massachusetts / New Hampshire Chapter of the Alzheimer's Association, to speak about the organization's upcoming event in Plymouth.

Ms. Schiavone announced that the Alzheimer's Association will hold its annual Walk to End Alzheimer's on September 29th along Plymouth's waterfront. On behalf of her organization, Ms. Schiavone presented Senate President Therese Murray with an honorary certificate for the support that the Senate President has shown both to the Alzheimer's Association and to those who suffer from Alzheimer's disease.

Senate President Murray discussed statistics related to the disease and talked about some of the legislative initiatives she is working upon to assist those suffering from the disease. She encouraged local citizens to volunteer for or participate in the September 29th event.

TOWN MANAGER'S REPORT

Plymouth Center for the Arts – Town Manager Melissa Arrighi encouraged Plymouth residents and tourists to visit the Plymouth Center for the Arts at 11 North Street. Following a recent visit to the Center, Ms. Arrighi described the facility as an impressive example of volunteerism, an excellent use of CPC funds, and an overall success story.

Paving on Court and Main Streets – Ms. Arrighi announced that ParkPlymouth plans to conduct pavement marking work on Court and Main Streets in the early morning hours of September 24, 2012. ParkPlymouth, she said, has placed a public notice pertaining to this work in the newspaper, in addition to notifying businesses, door-to-door.

Police Program – Ms. Arrighi reported that the Drug Enforcement Administration (DEA) has scheduled another National Prescription Drug Take-Back Day to take place on Saturday, September 29, 2012, from 10:00 a.m. to 2:00 p.m. at Plymouth Police Headquarters. This is a great opportunity, she said, for those who have accumulated unwanted, unused prescription drugs to safely dispose of those medications.

Committee of Precinct Chairs – Ms. Arrighi spoke about the efforts made by the Committee of Precinct Chairs (“COPC”) to refine the process for Town Meeting “Super Caucuses” and to develop a written protocol that maximizes the benefits that the caucuses were intended to provide. The goals outlined by the COPC to revise the caucus process, she said, were:

- Consolidate the time spent by town employees and private citizens in attending individual caucuses
- Promote the exchange of article-specific information between presenters and Town Meeting Members
- Create the opportunity for Town Meeting Members to ask constructive questions and receive qualitative responses from article sponsors

Ms. Arrighi noted that the COPC has scheduled three Super Caucuses (now called “Presentation Forums”) on the following dates:

- October 1, 2012, 7:00 p.m., Plymouth South High School
Facilitator: Karen Keane, e-mail: kmkcjk04@aol.com
Covering Precincts: 8, 9, 12, 14, 15
- October 4, 2012, 7:00 p.m., Hedge Elementary School
Facilitator: Christine Pratt, e mail: prattck1@verizon.net
Start Time: 7:00pm
Covering Precincts 1, 2, 3, 11, 13
- October 11, 2012, 6:30 p.m., Town Hall (Televised)
Facilitator: David Tarantino e-mail: dtarantino42@gmail.com
Covering Precincts 4, 5, 6, 7, 10

Support for 1820 Courthouse Articles – Ms. Arrighi was pleased to report that the Plymouth Redevelopment Authority (“PRA”) recently voted to support both articles on the Fall Town Meeting warrant related to the 1820 Courthouse (Article 8, to allow the Town to enter into a long term lease on the property, and Article 18, to transfer a municipal lot within the Courthouse Corridor from the custody of the School Department to the custody of the Selectmen).

COMMITTEE LIAISON / DESIGNEE UPDATES

Nuclear Matters Committee – Vice Chairman Mahoney was pleased to note that Michael Jackman of Congressman William Keating’s office attended the September 17, 2012 meeting of the Nuclear Matters Committee to gather information on behalf of the Congressman.

Building Committee – Chairman Muratore reported that he and the Town Manager attended the September 13, 2012 meeting of the Extended Building Committee to discuss the Plymouth North High School project and the potential for a project at Plymouth South High School. With the completion of the North High School project, he said, the committee’s business is tapering off.

New Business Opening – Chairman Muratore noted that he attended the ribbon-cutting ceremony for the opening of the new Joanne Fabrics store at The Shops at Five. It is great, he said, to see businesses returning to Plymouth.

Plymouth Youth Development Collaborative – Chairman Muratore congratulated the Plymouth Youth Development Collaborative (“PYDC”) on receiving a \$200,000 grant to initiate new youth-focused programs. The PYDC, he explained, is a cooperative group of local service providers who have joined with Superintendent Gary Maestas to work towards reducing the risk factors that contribute to underage drinking and drug abuse in Plymouth

PUBLIC COMMENT

Matt Romboldi, owner of Lombard’s Waste Services, expressed concern about the Town’s proposal to transition to a curbside municipal solid waste disposal program. As the owner of a small disposal service, he said, it is his belief that the Town’s community-wide curbside program will effectively put him out of business. Mr. Romboldi questioned how ABC Disposal (the selected bidder on the curbside RFP) could realistically provide curbside service for an annual fee of only \$170 per household, and he recommended that the Selectmen ask the voters to decide, by ballot, whether they would prefer the curbside program over the current transfer station system. Many of the small, local disposal businesses that pay taxes in the Town of Plymouth will suffer if the curbside program is implemented, he said.

FALL TOWN MEETING ARTICLES

ARTICLE 1

To see if the Town will vote to amend the Classification and Compensation Plans and the Personnel By-Law and Collective Bargaining Agreements contained therein, or take any other action relative thereto.

BOARD OF SELECTMEN

Roberta Kety, Human Resources Director, indicated that Article 1 represents a singular change to the Town's Personnel Bylaw. The Finance Department, she said has recommended the addition of a new position to the non-union, Miscellaneous D Schedule of the Personnel Bylaw, entitled "Seasonal Office Worker." Ms. Kety explained that this position will provide seasonal support to the Collector/Treasurer's Office during the busy annual sale of beach stickers and transfer station passes. The SEIU collective bargaining unit has agreed to the addition of this part-time, non-benefit-eligible position, she noted.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to recommend Article 1 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 28

To see if the Town will vote to authorize the Board of Selectmen to grant to NSTAR Electric Company, a perpetual non-exclusive utility easement in that portion of Town owned property located on Obery Street, more particularly described in deeds recorded with Plymouth County Registry of Deeds in Book 11972, Page 160 or take any other action relative thereto.

SCHOOL DEPARTMENT

Arthur Montrond, Director of Facilities for the School Department, explained that Article 28 provides NSTAR with a permanent easement for the relocation of a gas main running from Nook Road to Obery Street, along the new roadway at Plymouth North High School.

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to recommend Article 28 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 9

To see if the Town will vote to approve the Tax Increment Financing Agreement between the Town and High Rock Cranberry Crescent LLC, substantially in the form as is on file with the Town Clerk (the "TIF Agreement"), pursuant to G.L. c.40, §59, and to confirm the Board of Selectmen's selection of the location of the project as an Economic Opportunity Area ("Cranberry Crescent Economic Opportunity Area"), and to authorize the Board of Selectmen to submit an Economic Opportunity Area Application, Tax Increment Financing Plan, and Certified Project Application to the Massachusetts Economic Assistance Coordinating Council for approval, all relating to the project as described in the TIF Agreement to be located in the Cranberry Crescent Economic Opportunity Area, and to take such other actions as may be necessary to obtain approval of the Certified Project Application, the Economic Opportunity Area, the Tax Increment Financing Plan and TIF Zone and to implement the TIF Agreement, or take any other action relative thereto.

BOARD OF SELECTMEN

Denis Hanks, Executive Director of the Plymouth Area Chamber of Commerce, presented Articles 9 and 10 on behalf of the Plymouth Regional Economic Development Foundation (“the Foundation”). Both articles, he explained, represent requests for Tax Increment Financing (“TIF”) Agreements.

Mr. Hanks briefly discussed the ways by which the TIF program has evolved since the Town implemented its first agreements, ten years ago. The State, he said, has made a number of changes related to Department of Revenue tax credits, to provide additional flexibility within the program. Mr. Hanks reported that, since 2002, the Town has enacted 39 TIF agreements with local businesses. Fourteen of those agreements are still currently active, while ten have been fully completed (and therefore the agreements have terminated). Fifteen of the 39 agreements, he noted, were decertified for various reasons, but all of the Town’s TIF-related projects have successfully produced jobs and taxable values for Plymouth, creating 2,956 jobs and generating \$106 million in investments.

Mr. Hanks explained that Article 9 proposes a TIF Agreement with High Rock Cranberry Crescent, LLC for the development of approximately 340,000 square feet of commercial space on property situated between the intersection of Carver Road and Route 80 in West Plymouth. As part of the TIF Agreement, he explained, the developer will front the expense of a number of infrastructural improvements (roadway, water, and sewer), in exchange for tax discounts over the course of five years. Mr. Hanks provided a number of financial figures to illustrate the benefits of enacting the agreement.

In response to questions from Chairman Muratore, Mr. Hanks indicated that the TIF agreement will take effect for Fiscal Year 2015, due to the number of easement and zoning modifications that must be in place before the proposed infrastructural improvements can be undertaken.

Seeing no further questions from the Board, Chairman Muratore opened the discussion on Article 9 to public comment. No citizens came forth to speak.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to recommend Article 9 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 10

To see if the Town will vote to approve the Tax Increment Financing Agreement between the Town and Mirbeau Boston-South, LLC, substantially in the form as is on file with the Town Clerk (the “TIF Agreement”), pursuant to G.L. c.40, §59, and to confirm the Board of Selectmen’s selection of the location of the project as an Economic Opportunity Area (“Pinehills Economic Opportunity Area #1”), and to authorize the Board of Selectmen to submit an Economic Opportunity Area Application, Tax Increment Financing Plan, and Certified Project Application to the Massachusetts Economic Assistance Coordinating Council for approval, all relating to the project as described in the TIF Agreement to be located in the Pinehills Economic Opportunity Area #1, and to take such other actions as may be necessary to obtain approval of the Certified Project Application, the Economic Opportunity Area, the Tax Increment Financing Plan and TIF Zone and to implement the TIF Agreement, or take any other action relative thereto.

BOARD OF SELECTMEN

Mr. Hanks presented the proposed TIF Agreement between the Town and Mirbeau Boston-South, LLC (Article 10). Approximately ten years ago, he noted, the Town approved a TIF Agreement for a Marriot Conference Center at The Pinehills, but ten years have passed and the project has not materialized. There are ten years remaining on the agreement, however, and, thus, Article 10 proposes to amend the existing agreement to accommodate a new hotel project at The Pinehills.

Mr. Hanks reported that Mirbeau Boston-South, LLC proposes to construct a 120-room hotel and spa near the Pinehills Village Green. The project, he said, is expected to generate 140 full and part-time jobs and approximately \$128,000 in hotel-motel room taxes each year, in addition to property tax revenue. Mr. Hanks acknowledged that the hotel project is not yet fully financed, but the TIF, he said, will act as an incentive to get financing in place.

At the close of the presentation, Mr. Hanks and John Judge from The Pinehills responded to a handful of questions from the Board regarding the design and location of the hotel/spa.

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to recommend Article 10 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 7

To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money for the purposes of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements between the Board of Health and residential property owners; including without limitation, the payment of all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; to determine whether this appropriation shall be raised by borrowing from the Water Pollution Abatement Trust or otherwise, or take any other action relative thereto.

COMMUNITY DEVELOPMENT

Lee Hartmann, Director of Planning & Development, explained that Article 7 is an annual request for funds to provide the Title V Betterment Loan Program to Plymouth homeowners. Through this popular and successful program, he said, the Town provides low-interest loans to homeowners who must upgrade their septic systems to meet Title V compliance standards. Mr. Hartmann reported that this year's request is for \$300,000, all of which is eventually paid back to the Town by the homeowners.

On a motion by Selectman Tavares, seconded by Selectman Brewster, the Board voted to recommend Article 7 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 25

To see if the Town will vote to amend its Zoning Bylaw by substituting the existing Official Zoning Maps with a new Official Zoning Map Revised consisting of two sheets (General Zoning and Aquifer Protection Overlay) or to take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

Mr. Hartmann explained that the Town's official zoning maps were drafted in 1972 on Mylar paper. In recent years, he said, computer technology for geographic mapping has improved greatly, and, therefore, he recommends that the Town's official maps be converted from paper to the electronic form known as Geographic Information Systems ("GIS"). Mr. Hartmann assured the Board that his department has worked extensively with the Town's Information Technology Department to ensure the accurate transfer of information from the Town's paper records to the new electronic records.

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to recommend Article 25 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 26

To see if the Town will vote to amend its Zoning Bylaw, Section 205-57 – "Aquifer Protection District" as it relates to the delineation of the district, uses allowed, special permit uses and prohibited uses or activities or to take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

Mr. Hartmann indicated that the Town must amend its Aquifer Protection District bylaw in order to comply with Department of Environmental Protection ("DEP") standards. Though the Town replaced its overlay map at the 2011 Fall Town Meeting, he said, DEP has requested minor language and formatting edits – hence the request in Article 26 to further amend the bylaw.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to recommend Article 26 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 33

We the registered voters of the town of Plymouth, petition the town meeting to vote to immediately place a moratorium, to continue for two years following the date of this vote, to direct all elected Board members within the town of Plymouth, and all appointed officials or employees of the Town of Plymouth, to take all actions necessary, to cease, suspend and otherwise prohibit the permitting, construction, installation, and contract negotiation for the siting of any commercial or municipal wind turbines anywhere within the borders of the town of Plymouth, on public or private land, under the present wind turbine by-laws or zoning by-laws by special permit, building permit or otherwise; and to direct the Plymouth Planning Board during this one year period to comprehensively review the existing wind turbine by laws, and other zoning by-laws which permit wind turbines within the town of Plymouth, in light of the reported health impacts and widespread litigation in neighboring communities.

BY PETITION: Kieran Kearney, et al

Kieran Kearney presented his petitioned article to enact a two-year moratorium on industrial wind turbines. Before providing an explanation of the reasons why he brought forth Article 33, Mr. Kearney reported that the Town's legal counsel has already determined that the language of the article is not legally binding, as written.

Mr. Kearney stated his belief that it would be in the best interest of the Town to study the impact of industrial wind turbines ("IWT") before allowing any further turbine projects to

move forward. The Town's bylaw has existed in its current form for approximately seven years, he said, which means that, as of today, an applicant could gain approval to place a 400-foot wind turbine as close as 400 feet to a nearby residence. Mr. Kearney indicated that the towns of Kingston, Scituate, Falmouth, and Fairhaven—with bylaws similar to Plymouth's—are currently dealing with complaints from residents pertaining to the noise of IWT's constructed in their communities.

Mr. Kearney cited a number of studies which he believes will validate the need for further study of the noise generated by IWT's. Until more data is available, he said, the Town should hold off on permitting any further projects, in the interest of the health and safety of its residents. Mr. Kearney described Plymouth's wind bylaw as "too ambiguous," noting that Senate President Therese Murray and the Plymouth Planning Board have expressed some support for the two-year moratorium. Despite the fact that his petition's language is not legally binding, Mr. Kearney asked the Selectmen to consider supporting the two-year moratorium, to provide time for further research and review of the existing bylaw.

Planning Director Lee Hartmann informed the Selectmen that the Planning Board voted 3-2 to support a two-year moratorium on wind turbine projects greater than 100 feet in height in residential and village center zones. The Planning Board, he reported, made note in its motion that those projects already approved and in the process of permitting and/or construction shall be exempt from the moratorium. Mr. Hartmann noted that, out of the seven IWT projects that have been brought forth to the Town, four have been approved, two are under legal appeal, and one—which was approved via the Special Permit process before the Town's wind bylaw was enacted—is currently being constructed (Camelot Drive).

Mr. Hartmann responded to a number of questions from the Selectmen related to the Planning Board's recommendation and the technical aspects of the Town's wind bylaw. Because the Town's Energy Committee was the entity responsible for drafting Plymouth's wind bylaw, he said, the Planning Board recommends that the Energy Committee be involved in the analysis and (potential) modification of the bylaw language. Mr. Hartmann noted that Town Meeting would hold the ultimate authority over any changes proposed to the bylaw. If the Town was to decide it would prohibit any turbines within 2,000-3,000 feet of a residential home, he stated, it could effectively prohibit the construction of an IWT anywhere within Plymouth's boundaries. Mr. Hartmann pointed out that Plymouth's bylaw is not arbitrary; rather, he said, it has been used by other communities as a model.

Chairman Muratore opened the discussion on Article 33 to public comment.

Joe Santolucino spoke about the positive benefits of wind turbines, noting that they are known to create jobs and generate revenue, all while providing customers with a clean source of energy. While Mr. Santolucino acknowledged that there have been legitimate issues with noise from turbines using older technology, he asserted that there are a number of credible scientific studies that disprove the attribution of health issues to the noise generated by newly-designed turbines. There is no need, he said, to wait two years for

further study of wind turbines when there are so many existing studies and scientific conclusions that are already available.

Brian Kuhn cautioned the Board against supporting the request for a two-year moratorium on IWT's. As a former member of the Town's Energy Committee, a holder of a degree in sustainable energy, and a principal in two Plymouth-based wind-energy businesses (Aeronautica Wind Power and Associated Wind Power Developers), Mr. Kuhn stated his position that Plymouth's bylaw is looked upon not only as a model at the State level but at the national level. The wind turbines erected across the country, he said, are generating the power that 25 nuclear power stations would produce, and, thus, citizens must recognize the value and importance of clean, safe, sustainable energy. Mr. Kuhn acknowledged that some may feel it is prudent to wait for further study of turbine noise, but he offered his observation that, for every anti-wind study that alleges health impacts, there is another that discredits such claims. Plymouth's bylaw is good, he said, and it would be a shame for the Town to lose momentum in its pursuit of energy independence by opting to enact a moratorium on wind turbines.

Eric Heller expressed his support for the two-year moratorium so that scientists can study and determine whether or not wind turbines meet the Federal threshold of 10 decibels. He offered his belief that the turbine industry, itself, should wait to allow such studies to solve the noise issue, once and for all.

Keith Mann described the thorough process by which the Town vetted his wind project, for which he received a special permit for four IWT's. After two years and twelve public hearings, he said, the project evolved as a result of a reasonable special permit process, which included the input of Town officials and citizens. While Mr. Mann acknowledged that there is always room to conduct more research, he asserted that there are no studies which indicate that wind turbines have any adverse effects upon health. The World Health Organization, he reported, names wind power as the healthiest source of energy that can be purchased. Mr. Mann advised the Board against supporting the moratorium, which he described as "too extreme."

Lee Burns, a member of the Town's Energy Committee and a retired research scientist with 30 years of experience on medical studies, discussed the concept of infrasound. The scientific community, he said, is beginning to discuss the possibility that turbines make infrasound, which is a low-frequency noise that emanates at a vibration beyond what the normal human ear can detect. Mr. Burns offered his observation that nearly every IWT project has caused at least one neighboring resident to report that they are experiencing some distress, and there are some scientists who are now questioning whether such distress can be attributed to repeated infrasound. This, he said, is why the widely-respected British Medical Journal believes that complaints about wind turbines warrant further study.

Monica Mann encouraged the Board to reject the proposed moratorium in favor of continuing to review each individual IWT project on its own merit. Though it is nearly impossible to get 100% public support on every subject, she said, most can agree that wind power is a requirement of the future, as it is deemed the cleanest, most responsible form of

energy generation. Ms. Mann noted that solar power, while certainly a clean energy source, is not as efficient as wind power, and nuclear power inevitably produces dangerous spent fuel. Plymouth, she remarked, is blessed with a good deal of steady winds, and, therefore, the Town should not dismiss the opportunity to harness such a valuable, clean source of power.

Bethany Kuhn, daughter of Brian Kuhn, sought to point out that the DEP study cited earlier in the discussion by Mr. Kearney determined that infrasound is not an issue with wind turbines. Plymouth's bylaw, she said, requires every IWT project to meet the Federal standard of no more than 10 decibels. Ms. Kuhn reiterated that Plymouth's bylaw is looked upon as a model by other Massachusetts communities; if Plymouth were to enact a moratorium, she said, it could potentially stall or discourage wind projects both within and beyond the Town.

Seeing no further public comment, Chairman Muratore brought the matter back to the Board for discussion. Selectman Tavares expressed concern about the effect that IWT's may have upon residential neighborhoods, and, as such, he supported the idea of allowing more time for research.

Selectman Tavares made a motion to recommend the moratorium to the 2012 Fall Annual Town Meeting. Vice Chairman Mahoney seconded the motion.

Mr. Hartmann reminded the Board that the language of Article 33 is not legally binding, and, therefore, the Board should vote upon whether it will support the Planning Board's official recommendation on the two-year moratorium. The Board appeared to clearly understand Mr. Hartmann's statement, and Selectman Tavares acknowledged that his motion should be modified as such.

Selectman Harnais speculated that studies on the health effects of wind turbines could go on, indefinitely. While there would be no harm in periodically reviewing and improving the Town's wind bylaw, Selectman Harnais said, the proposed moratorium is too extreme. Vice Chairman Mahoney had no objections to the Planning Board's recommendation to conduct a review of the current wind bylaw but noted his faith in the Town's current Planning and Zoning Board of Appeals processes. Selectman Brewster stated that, while she does not support the construction of wind turbines in residential neighborhoods, she feels that the current site-by-site (Planning and ZBA) review processes provide a series of checks and balances that allow ample public participation. Chairman Muratore advocated for a review of the current bylaw but noted his belief that a two-year moratorium would be too long.

Chairman Muratore called for a vote on Selectman Tavares motion to support the Planning Board's recommendation on the wind turbine moratorium proposed by petitioned Article 33. The Board voted 1-4-0, with Selectmen Tavares casting the lone vote in favor. The motion did not carry.

ARTICLE 34

To see if the Town will vote to amend the Zoning Map of the Town of Plymouth to rezone the land shown as Lot 14F-2 on Assessors' Map 104 from R-20-MD to Light Industrial (LI) or to take any other action relative thereto.

BY PETITION: Edward A. Angley, et al

Ed Angley explained that Article 34 is related to the High Rock Cranberry Crescent project at the intersection of Carver Road and Route 80, which was discussed earlier by Denis Hanks during the presentation on the TIF agreement proposed within Article 9.

Planning Director Lee Hartmann reiterated that the property subject to rezoning via Article 34 is located at the intersection of Commerce Way and Plympton Road (Route 80). It is currently zoned as residential, he explained, but the Planning Board has since recommended the change to Light Industrial ("LI"), based on the location of the property at the intersection of two main traffic corridors and its immediate proximity to LI-zoned property.

Mr. Angley noted that the project will not have a curb cut on Route 80.

Chairman Muratore opened the discussion on Article 34 to public comment. No citizens came forth to speak.

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to recommend Article 34 to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

Chairman Muratore called for a brief recess at 9:20 p.m. He then reconvened the meeting at approximately 9:30 p.m.

ARTICLE 16A

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise, for historic preservation purposes pursuant to G.L.C. 44B and also for the purpose of leasing, on such terms and conditions as the Board of Selectmen deem appropriate, and to accept a deed to the Town of Plymouth of a fee simple interest to a parcel of land and the buildings thereon, commonly known as Congregation Beth Jacob Community Center which is also formally known as Plymouth's Methodist Episcopal Church located at 25 ½ Court Street, Plymouth shown on Assessor's Map 17 as Parcel 145-2, and further that the land shall be in the care, custody, management and control of the Board of Selectmen, and as funding therefor to transfer from the Community Preservation Historical Account, estimated annual revenues, fund balance, or reserves, the sum of \$365,000 for the acquisition and the additional sum of \$285,000 for the installation of two ADA compliant bathrooms, fire emergency exit and fire sprinkler system on said premises; and further to authorize the Board of Selectmen to enter into a lease agreement with the Greater Plymouth Performing Arts Center, Inc. ("GPPAC") for the use of the building located on the premises, for such consideration, which may be nominal, and under such terms and conditions as the Board of Selectmen deems appropriate, which conditions shall include, but not limited to, the following: (1) a provision authorizing the Board of Selectmen to appoint a member of the GPPAC board of directors, for two-year terms, for the length of the lease; (2) a provision providing that the Town and its committees may use the building, based on availability, for meeting space; (3) a provision providing that Plymouth students shall be permitted to attend select GPPAC-sponsored play productions free of charge based upon availability; (4) and a provision negotiated by GPPAC and Congregation Beth Jacob allowing said congregation to use the premises for the Rosh Hashanah and Yom Kippur holidays; and further to

authorize the Board of Selectmen to grant to a governmental entity, a non-profit or charitable organization, a historical preservation restriction on said property meeting the requirements of G.L. c.184, or take any other action relative thereto

COMMUNITY PRESERVATION COMMITTEE

Bill Keohan, chairman of the Community Preservation Committee (“CPC”), presented three projects (Articles 16A, 16B, and 16C) that his committee has voted to bring forth to Town Meeting for consideration. All three projects, he stated, can be undertaken from available Community Preservation Act (“CPA”) funds; no borrowing will be necessary.

Article 16A, Mr. Keohan explained, proposes to purchase 25½ Court Street, which is currently owned by Congregation Beth Jacob. Prior to the Congregation’s purchase of the property in 1978 as a community center, the building served as a Methodist Church. Mr. Keohan indicated that the church, which was built in 1886, has a large open room with a stage, balcony, and seating with no obstructed views. As such, he said, the Greater Plymouth Performing Arts Center (“GPPAC”) has proposed—with the support of Congregation Beth Jacob—that the Town purchase the property with CPA funds to establish a performing arts center in the former church. Within its application, GPPAC proposes to enter into a ground lease with the Town to assume responsibility for the care, maintenance, and protection of the building.

Mr. Keohan reported that the CPC voted to recommend that Town Meeting grant \$365,000 for the purchase of the facility and an additional \$285,000 to renovate the facility (to install a sprinkler system, ADA compliant bathrooms, and an additional emergency egress). GPPAC, he said, would be responsible for pursuing grant opportunities and private donations to properly operate and maintain the facility. Mr. Keohan described this project as very similar to the successful Plymouth Center for the Arts project on North Street, whereby the Town purchased the building with CPC funds and the Plymouth Guild for the Arts was granted a ground lease to operate and maintain the property. Also in line with the Arts Center project, he said, the CPC recommends that the Selectmen appoint a representative to serve on GPPAC’s board of directors to represent the interests of the Town. Mr. Keohan noted that the Town is being asked to require that GPPAC allow Congregation Beth Jacob free use of the facility on its high holidays.

Selectman Tavares expressed concern about the physical condition and aesthetic appearance of the historic structure. Mr. Keohan reported that a professional structural engineer has evaluated the building and recommended continued monitoring of two exterior walls. The final report will be complete within a couple weeks, he said, but he is confident (based on the engineer’s preliminary evaluation) that the structure is sound and ready to handle GPPAC’s proposed use. Mr. Keohan affirmed that 25½ Court Street falls within the Town’s Historic District and would therefore be subject to the Town’s protective regulations pertaining to historic structures.

Robert Hollis, president of GPPAC, explained that his theater group has been successful to the point that it has outgrown its former space at the Arts Center on North Street and subsequent use of the Blue Room at Memorial Hall. The space at 25½ Court Street is gorgeous, he said, and can serve as an amazing, 200-seat performance space with only a

few modifications of the stage and seating areas. GPPAC, he said, has already identified potential tenants of the surplus areas within the building that would provide a regular revenue source towards maintenance and operation, in addition to revenues from the various activities and performances that can take place at the center. Mr. Hollis emphasized the ways by which a performing arts center at 25½ Court Street will bring added vitality and foot traffic to the downtown.

Mr. Keohan and Mr. Hollis responded to questions from the Board regarding the proposed ground lease agreement between the Town and GPPAC. Mr. Keohan explained that the ground lease conveys the building to GPPAC for 100 years (while the Town retains interest in the land). If GPPAC ceases to exist, Mr. Keohan indicated, there is a clause in the agreement that conveys the building back to the Town for sale or lease—again, similar to the agreement with the Art Guild for 11 North Street. Mr. Keohan noted that, as part of the Town’s agreement with GPPAC, the Town would be allowed the use of the facility for official Town events and activities, free of charge, based on availability.

Selectman Brewster stated her support for the idea of the performing arts center but expressed concern for the CPC’s proposal to grant \$650,000 of taxpayer money to GPPAC without the provision of a more thorough business plan or the demonstration of more ‘sweat equity’ by the organization raise funds to purchase the facility, itself. Mr. Hollis responded that he was very conservative with the budget he proposed in his CPC application, and he affirmed that GPPAC is actively fundraising for the project. Mr. Keohan acknowledged Selectmen Brewster’s preference that GPPAC purchase the building on its own, but he contended that there is a public value to establishing a community theater in the downtown, which may ultimately bring the community a return on its investment.

Both Selectman Brewster and Selectman Tavares noted their disappointment that the CPC did not approve the Department of Public Works’ request for funds to restore Burial Hill. Referencing Memorial Hall, the new Plymouth North auditorium, and the proposed performance shell on the waterfront, Selectman Brewster questioned whether there was already an ample number of performing arts venues in Plymouth. Selectman Tavares asked whether GPPAC’s theater would be in direct competition with performances at Memorial Hall.

Mr. Keohan countered that a seasonal performance space on the waterfront would not provide the year-round activity that GPPAC could generate in the downtown. Mr. Hollis noted that the schedules for use of Memorial Hall and PNHS cannot accommodate GPPAC’s performances, because the group typically requires the reservation of a venue for two to three weeks, straight. With regard to the question of competition with Memorial Hall, Mr. Hollis contended that the venues are completely different in both size and interior character, attracting very different types of performances and events. For example, Mr. Hollis said, Memorial Hall hosts a number of mixed martial arts competitions, while 25 ½ Court Street could never accommodate that type of event.

With regard to the DPW’s application for projects at Burial Hill and Stephens Field, Mr. Keohan stated that the CPC did not deem the projects to be ready. The committee, he

said, intends to support these projects in the next round of funding, so long as the projects have been fully vetted.

Chairman Muratore opened the discussion on Article 16A to public comment.

Frank Drollett, Plymouth resident and owner of Colonial Stone, stated his disbelief that the CPC would overlook the deteriorating conditions at Burial Hill in favor of purchasing 25½ Court Street. Mr. Drollett discouraged the Board from voting in favor of Article 16A, as, in his opinion, the building at 25½ Court Street is not structurally sound.

Seeing no further public comment, Vice Chairman Mahoney made a motion to recommend Article 16A to the 2012 Fall Annual Town Meeting. Selectman Harnais seconded the motion.

Selectman Tavares maintained his concerns about the structural integrity of the building but noted his recognition of the positive impact that a performing arts center could have upon the downtown. Selectman Tavares and Selectman Brewster questioned whether the CPC should consider withholding the \$285,000 in CPA funds for improvement costs if GPPAC is not awarded with a Massachusetts Cultural Grant. Both agreed that they would give their initial support to the project but would change their votes if the engineer's final report reveals that the building is not structurally sound.

Mr. Keohan again reiterated his position that 25½ Court Street is structurally sound and in turnkey condition. Beth Jacob maintained the building well, he said, and sought to sell the building to an individual/entity that would preserve the integrity and character of the building. With regard to the Massachusetts Cultural Grant, Mr. Keohan indicated that the grant is intended to provide GPPAC with the funds necessary to undertake improvements to the building beyond the installation of the sprinkler system, ADA compliant bathrooms, and additional emergency egress (for which the \$285,000 will be earmarked). The CPC, he acknowledged, could opt to hold the \$285,000 until GPPAC acquires the Massachusetts Cultural Grant, but GPPAC cannot apply for the State grant until it has control of the building.

At the close of discussion, the Board voted 5-0-0 in favor of recommending Article 16A to the 2012 Fall Annual Town Meeting.

ARTICLE 16B

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise for open space, including agricultural, purposes, pursuant to G.L. c 44B and to accept the deed to the Town of Plymouth of a fee simple interest or less to a parcel of land containing 19 acres, more or less, located off Center Hill Road, Plymouth shown on Assessor's Map 52 as Lots 26-U, 27A, 9C and 9F and further that said land shall be held under the care, custody, and control of the Conservation Commission, and as funding therefor to appropriate \$350,000, with \$16,000 to be appropriated from the Community Preservation Fund estimated annual revenues, fund balance, or reserves, and/or borrow a sum of money pursuant to G.L. c.44B or any other enabling authority, \$169,000 transferred from the amount appropriated under Article 16B of the October 25, 2010 Fall Annual Town Meeting and \$165,000 transferred from the amount appropriated under Article 16C of

the October 25, 2010 Fall Annual Town Meeting; and further to authorize the Board of Selectmen to grant a conservation restriction including but not limited to an agriculture use of said property pursuant to G.L. c.44B, §12 and G.L. c.184, §§ 31-33 and to authorize appropriate Town officials to enter into all agreements and to execute any and all instruments as may be necessary on behalf of the Town to effect said purchase; or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE

Mr. Keohan reported that the CPC voted to recommend the purchase of 20 +/- acres of uplands of cranberry bogs adjacent to—and only accessible via—the Center Hill Preserve. The purchase price on this parcel, he explained, is consistent with the appraisal. Mr. Keohan explained the history of the parcel and Town Meeting’s vote in 2010 (under Fall Annual Town Meeting Article 16B) to set aside funds for its purchase. Article 16B of the 2012 Fall Annual Town Meeting will purchase the fee simple interest and assume the agricultural interest from the owner. Mr. Keohan reported that the property has a fully functional cranberry bog for which the Town could issue a bid for its operation.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to recommend Article 16B to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 16C

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise for open space purposes pursuant to G.L. c. 44B and to accept the deed to the Town of Plymouth of a fee simple interest or less to a parcel of land containing 348 acres of land, more or less, located off Old Sandwich Road, Plymouth, shown on Assessor’s Map 61 as Lots 2, 4 and Map 62, Lots 1B, 1 C and further that said land shall be held under the care, custody, and control of the Conservation Commission; and as funding therefor to transfer and appropriate from the Community Preservation Fund estimated annual revenues, fund balance, or reserves a sum of money for such purposes; and further to authorize the Board of Selectmen to grant a conservation restriction in said property pursuant to G.L. c.44B, §12 and G.L. c.184, §§ 31-33, and to authorize appropriate Town officials to apply for and expend any grants for such purposes, and to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase; and further that any grants received for the purposes of this Article shall be used to reduce the amount expended hereunder or, if received after the purchase is made, be credited to the Community Preservation Fund; or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE

Article 16C, Mr. Keohan reported, will protect one of the largest parcels of privately owned, undeveloped land in the Town of Plymouth. North of the Savery Pond Well and contiguous to a number of the Town’s other preserved parcels, this 348-acre parcel is relevant to Ellisville Harbor and could potentially provide the Town with additional well zone locations. Though the property is assessed at approximately \$4 million, the CPC has been working with the owner for many years, and the owner has agreed to sell the property to the Town for only \$3 million. Mr. Keohan informed the Board that the Town will pursue grants with the Massachusetts Department of Fish & Wildlife to offset the purchase price of the parcel. An acquisition of this size, he said, encourages ecotourism and prevents the potential development of approximately 297 homes over the Town’s aquifer.

At the close of his presentation, Mr. Keohan responded to some brief comments and questions from the Selectmen regarding the proposed acquisition. Selectman Brewster reiterated her disappointment that the CPC did not approve the applications to fund projects at Burial Hill and Stephens Field. Mr. Keohan asserted that the CPC has been very supportive of a number of historical preservation projects in the downtown area. With regard to Article 16C, Mr. Keohan said, the CPC felt it was imperative to seize the opportunity to acquire 350 acres of undeveloped open space at a bargain price.

On a motion by Vice Chairman Mahoney, seconded by Selectman Harnais, the Board voted to recommend Article 16C to the 2012 Fall Annual Town Meeting. Voted 5-0-0, approved.

LICENSES

COMPREHENSIVE ENTERTAINMENT (NEW)

On a motion by Selectman Tavares, seconded by Selectman Brewster, the Board voted to grant a Comprehensive Entertainment License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Pillory Pub LLC d/b/a Pillory Pub**, 72 Water Street, John Parsons, Manager
Applying for Group 3 – Live Entertainment (already has Group 1, Radio, TV)

VEHICLE FOR HIRE BUSINESS LICENSE (CHANGE OF ADDRESS)

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to approve a Change of Address for the following Vehicle for Hire Business License, as detailed below. Voted 5-0-0, approved.

- ❖ **Morris and Sons Coach & Cab** (Steven Morris, owner) – New Address: 21 Seaview St.
Former address: 193 Fairview Lane
Issuance of above license is subject to approval from the Inspectional Services Department.

ONE DAY ALL ALCOHOL LIQUOR LICENSE*

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a One Day All Alcohol Liquor License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Taylor Tibbetts / America's Hometown Thanksgiving Celebration** requested a One Day All Alcohol Liquor License for a VIP Event to be held at Memorial Hall (83 Court Street) from 5:30 p.m. to 7:00 p.m. on November 16, 2012.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a One Day All Alcohol Liquor License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Deb Cox / Plymouth Philharmonic Orchestra** requested a One Day All Alcohol Liquor License for a pre-concert soirée to be held at Pilgrim Hall Museum (75 Court Street) from 5:30 p.m. to 8:00 p.m. on September 29, 2012.

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to grant a One Day All Alcohol Liquor License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Deb Cox / Plymouth Philharmonic Orchestra** requested a One Day All Alcohol Liquor License for a concert to be held at Memorial Hall (83 Court Street) from 5:00 p.m. to 10:00 p.m. on September 29, 2012.

Liquor liability will be in place before these licenses are released.

ONE DAY WINE & MALT LIQUOR LICENSE*

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a One Day Wine & Malt Liquor License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Elizabeth Tarrant / Health Imperatives** (942 West Chestnut Street, Brockton) requested a One Day Wine & Malt Liquor License for an awards dinner to be held at Memorial Hall (83 Court Street) from 4:00 p.m. to 8:00 p.m. on September 24, 2012.

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a One Day Wine & Malt Liquor License to the following applicant, as detailed below. Voted 5-0-0, approved.

- ❖ **Taylor Tibbetts / Edible South Shore** (15 Evergreen Street) requested a One Day Wine & Malt Liquor License for a wine pairing event to be held at the Pinehills Summer House from 4:00 p.m. to 6:00 p.m. on September 23, 2012.

Liquor liability will be in place before these licenses are released.

*One day liquor licenses shall automatically cover the day before and the day after the event for the purpose of proper delivery, storage and disposal of alcoholic beverages purchased.

CHANGE OF OFFICERS/DIRECTORS, ISSUANCE OF STOCK (LIQUOR)

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to approve a Change of Officers/Directors and Issuance of Stock for the following holder of an annual All Alcohol Restaurant Liquor License, as outlined in the application documents. Voted 5-0-0, approved.

- ❖ **99 Restaurants of Boston, LLC d/b/a 99 Restaurants & Pub**, 19 Home Depot Drive requested a Change of Officers/Directors and Issuance of Stock.

ADMINISTRATIVE NOTES

Meeting Minutes – The Board approved the minutes of the June 5, 2012 Selectmen’s meeting.

Long Beach Activity Permit – The Board approved a Plymouth Long Beach Research/Activity Permit for Irina Kadis and Alexey Zinovjev to conduct a plant inventory at Long Beach, as recommended by the Environmental Management Division.

No Action on Fall Town Meeting Article 32 – The Board will take no action on Fall Town Meeting Article 32, at the request of the petitioner, Robert C. Better.

No Action on Fall Town Meeting Article 35 – The Board will take no action on Fall Town Meeting Article 35, at the request of the petitioner, Edward A. Angley.

OLD BUSINESS / LETTERS / NEW BUSINESS

Roadway at New High School – Selectman Tavares asked the Town Manager to notify the Department of Public Works about a significant hole in the roadway at the new Plymouth North High School.

ADJOURNMENT OF MEETING

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to adjourn its meeting at approximately 10:45 p.m. Voted 5-0-0, approved.

Recorded by Tiffany Park, Clerk to the Board of Selectmen

A copy of the September 18, 2012 meeting packet is on file and available for public review in the Board of Selectmen’s office.